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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

DAVID IVAN LUSTIG,

Defendant.

Adv. Pro. No. 10-04554 (SMB)

NOTICE OF MEDIATOR SELECTION

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010

Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on December 1, 2010, [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On February 28, 2014, Defendant David I. Lustig filed a motion to dismiss this adversary proceeding [Dkt. No. 39] pursuant to Federal Rules of Civil Procedure 9(b), 12(b)(1) and 12(b)(6), made applicable by Bankruptcy Rules 7009 and 7012.

On May 16, 2014, the Trustee filed with this Court the Notice of Mediation Referral [Dkt. No. 43], pursuant to Paragraph 2D of the Avoidance Procedures.

Through this Notice of Mediator Selection, and pursuant to the Avoidance Procedures and the Mediation Order, made applicable to the Trustee and Defendant (collectively, the “Parties”) upon the filing of the Notice of Mediation Referral, the Parties hereby mutually select from the Mediation Register Jeffrey N. Rich, from the law firm of Rich Michaelson Magaliff Moser, LLP, to act as Mediator in this matter. The Parties further agree to contact Mr. Rich as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person’s law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

Dated: New York, New York

June 2, 2014

Of Counsel:

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